

## **IC 20-12-5.5**

### **Chapter 5.5. Capital Projects**

## **IC 20-12-5.5-1**

### **Definitions**

Sec. 1. As used in this chapter:

"Higher education institution" means Indiana University, Purdue University, Indiana State University, Vincennes University, Ball State University, University of Southern Indiana, and Ivy Tech State College.

"Repair and rehabilitation project" means any project to repair, rehabilitate, remodel, renovate, reconstruct, or finish existing facilities or buildings; to improve, replace, or add utilities or fixed equipment; and to perform site improvement work, whereby the exterior dimensions of any existing facilities or buildings remain substantially unchanged.

*As added by Acts 1977, P.L.250, SEC.1. Amended by P.L.218-1985, SEC.7; P.L.5-1995, SEC.12.*

## **IC 20-12-5.5-1.5**

### **Facilities planning fund**

Sec. 1.5. The facilities planning fund is established at each higher education institution. The assets of the fund may be used only to pay for the preliminary planning of academic facilities. An academic facility construction budget must include sufficient funds to reimburse the fund for all funds allocated under this section for the preliminary planning of the facility.

*As added by P.L.138-1988, SEC.1.*

## **IC 20-12-5.5-2**

### **Projects authorized; conditions**

Sec. 2. (a) In addition to projects authorized by the general assembly, the trustees of each higher education institution may engage in any of the following projects so long as there are funds available for the project and the project meets any of the applicable conditions:

- (1) Each project to construct buildings or facilities of a cost greater than two hundred thousand dollars (\$200,000), or to purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds one hundred thousand dollars (\$100,000), must be reviewed by the commission for higher education and approved by the governor upon recommendation of the budget agency. If any part of the cost of the project as specified in section 3 of this chapter is paid by state appropriated funds or by mandatory student fees assessed all students and if the project is to construct buildings or facilities of a cost greater than five hundred thousand dollars (\$500,000), or to purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds three hundred thousand dollars (\$300,000), the project must also be approved by the

general assembly. Nothing herein limits the trustees in supplementing projects approved by the general assembly from gifts or other available funds so long as approval for the expansion of projects is given by the governor on review by the commission for higher education and recommendation of the budget agency.

(2) Each repair and rehabilitation project must be reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency, if the cost of the project exceeds five hundred thousand dollars (\$500,000) and if any part of the cost of the project is paid by state appropriated funds or by mandatory student fees assessed all students. If no part of the cost of the repair and rehabilitation project is paid by state appropriated funds or by mandatory student fees assessed all students, the review and approval requirements of this subdivision apply only if the project exceeds one million dollars (\$1,000,000).

(3) Each project to lease, other than a project to lease-purchase, a building or facility must be reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency, if the annual cost of the project exceeds fifty thousand dollars (\$50,000).

(b) The review and approval requirements of subsection (a)(1) do not apply to a project to construct buildings or facilities or to purchase or lease-purchase land, buildings, or facilities if the project involves the expansion or improvement of housing for students undertaken entirely by a fraternity or sorority at the state educational institution.

*As added by Acts 1977, P.L.250, SEC.1. Amended by P.L.139-1988, SEC.1; P.L.207-1995, SEC.1.*

### **IC 20-12-5.5-3**

#### **Cost factors**

Sec. 3. The cost of any project authorized under this chapter may include the following:

- (1) the estimated cost of architectural, engineering, and consulting services;
- (2) the estimated cost of the construction and any repair and rehabilitation project;
- (3) the purchase price of any land to be purchased for the project;
- (4) for lease-purchase projects, the aggregate rent to be paid over the terms of the lease and over any additional period for which the higher education institution has an option for extension or renewal;
- (5) the cost of equipment;
- (6) interest costs during construction; and
- (7) other costs approved by the state budget agency.

*As added by Acts 1977, P.L.250, SEC.1.*

#### **IC 20-12-5.5-4**

##### **Funds**

Sec. 4. To pay the cost of a project authorized under this chapter, the following funds may be used:

- (1) Any funds appropriated for the project by the current or any preceding general assembly, subject to allocation of the funds by the state budget agency, with approval of the governor.
- (2) Any funds derived from the issuance and sale of bonds by the trustees of any of the higher education institutions, so long as the issuance of the bonds which are to be supported by mandatory student fees assessed all students has been approved by the general assembly for each applicable project.
- (3) Any funds derived from earnings, farm and miscellaneous sales, or other receipts, so long as each project to construct buildings or facilities of a cost of greater than ninety thousand dollars (\$90,000) or each project to purchase or lease-purchase land, buildings or facilities the principal value of which exceeds fifty thousand dollars (\$50,000) is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency.
- (4) Any federal funds granted and allowed a higher education institution for a project to construct buildings or facilities, so long as each project of a cost of greater than ninety thousand dollars (\$90,000) or each project to purchase or lease-purchase land, buildings or facilities the principal value of which exceeds fifty thousand dollars (\$50,000) is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency.
- (5) Any available funds derived from gifts, bequests, devises, or from any other source not listed in provisions (1) through (4) of this section, so long as each project to construct buildings or facilities of a cost of greater than ninety thousand dollars (\$90,000) or each project to purchase or lease-purchase land, buildings or facilities the principal value of which exceeds fifty thousand dollars (\$50,000) is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency.

*As added by Acts 1977, P.L.250, SEC.1.*

#### **IC 20-12-5.5-5**

##### **Fee replacement money; appropriation**

Sec. 5. The general assembly may appropriate fee replacement monies for the replacement of student fees dedicated to pay the principal and interest costs of bonds as approved by the general assembly, and for lease-purchase costs.

*As added by Acts 1977, P.L.250, SEC.1.*

#### **IC 20-12-5.5-6**

##### **Budgetary and fiscal matters; advisory recommendation**

Sec. 6. The state budget agency may refer to the state budget

committee budgetary and fiscal matters under this chapter for which it would like an advisory recommendation. If a matter is referred to the state budget committee, it shall hold hearings, may exercise any powers under IC 4-12-1-11, and shall make an advisory recommendation to the budget agency. The advisory recommendation may recommend that the matter as referred be approved, disapproved, referred to the general assembly, or resolved in another way.

*As added by Acts 1977, P.L.250, SEC.1.*

#### **IC 20-12-5.5-7**

##### **Qualified energy savings project**

Sec. 7. (a) As used in this section, "qualified energy savings project" means a facility alteration designed to reduce energy consumption costs or other operating costs, including the following:

- (1) Providing insulation of the facility and systems within the facility.
- (2) Installing or providing for window and door systems, including:
  - (A) storm windows and storm doors;
  - (B) caulking or weatherstripping;
  - (C) multi-glazed windows and doors;
  - (D) heat absorbing or heat reflective glazed and coated windows and doors;
  - (E) additional glazing;
  - (F) reduction in glass area; and
  - (G) other modifications that reduce energy consumption.
- (3) Installing automatic energy control systems.
- (4) Modifying or replacing heating, ventilating, or air conditioning systems.
- (5) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility.
- (6) Providing for other energy conservation measures that reduce energy consumption or reduce operating costs.

(b) As used in this section, "qualified provider" means a person or business experienced in the design, implementation, and installation of energy and operational cost savings systems.

(c) As used in this section, "energy cost savings contract" means a contract between a higher education institution and a qualified provider for the implementation of at least one (1) qualified energy savings project and related measures.

(d) A higher education institution may undertake a qualified energy savings project as provided in this section. If the part of the qualified energy savings project related to real property improvements is greater than five hundred thousand dollars (\$500,000), the project must be reviewed by the commission for higher education and approved by the governor and the budget

director on the recommendation of the budget committee. A qualified energy savings project does not require the prior approval of the general assembly, notwithstanding the source of payment for the project or bonds issued to fund the project.

(e) A higher education institution may submit a request for proposals to qualified providers for an energy cost savings contract and may enter into an energy cost savings contract with a qualified provider under this section. The contract must provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time. The contract may provide that energy cost savings are guaranteed by the qualified provider to the extent necessary to make payments for the qualified energy savings project. A qualified provider shall provide a sufficient bond to the higher education institution for the installation and the faithful performance of all the measures included in the contract. The contract may also include contracts for building operation programs and maintenance and management or similar agreements with the qualified provider to reduce energy or operational costs.

(f) A request for proposals must include the following:

- (1) The name and address of the higher education institution.
- (2) The name, address, title, and phone number of a contact person.
- (3) The date, time, and place where proposals must be received.
- (4) Evaluation criteria for assessing the proposals.
- (5) A reasonably functional description of the facilities to be covered by the request for proposals or the maximum dollar cost of the qualified energy savings project subject to the request for proposals, or both.
- (6) Any other stipulations and clarifications the higher education institution may require.

(g) The higher education institution shall select the qualified provider and enter into an energy cost savings contract or contracts for a qualified energy savings project that best meets the needs of the higher education institution. The higher education institution shall provide public notice of the meeting at which it proposes to award an energy cost savings contract by publication one (1) time, at least ten (10) days in advance, in newspapers described in IC 4-1-5-1. The public notice must disclose the names of parties to the proposed energy cost savings contract and contain a reasonably functional description of the qualified energy savings project and the measures covered by the contract and project.

(h) After reviewing proposals submitted under this section, a higher education institution may enter into energy cost savings contracts with a qualified provider if the higher education institution reasonably expects that the cost of a qualified energy savings project recommended in the proposal would not exceed the amount to be saved in either energy or operational costs, or both, within the ten (10) year period following the date installation is complete if the recommendations in the proposal are followed. An energy cost savings contract may also include a guaranty from the qualified

provider to the higher education institution that either the energy or operational cost savings, or both, will meet or exceed the cost of the energy cost savings projects not later than ten (10) years after the date installation is complete.

(i) Energy cost and operational savings realized from a qualified energy savings project and an energy cost savings contract shall not reduce the amount of state appropriations otherwise available to the higher education institution.

*As added by P.L.208-1995, SEC.1.*